

DEPOSITION OF JON SCHWARZENTRAUB

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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

MIDLAND FUNDING, LLC,

Plaintiff,

vs. Case No. 3:08-CV-1434

ANDREA L. BRENT, Judge Katz

Defendant/Third-Party Plaintiff,

vs.

MIDLAND CREDIT MANAGEMENT, INC.,

Third-Party Defendant.

DEPOSITION OF JON SCHWARZENTRAUB

Taken on Tuesday, December 2, 2008 at 3:05 p.m.

At the law offices of:

Murray & Murray Co., L.P.A.

111 East Shoreline Drive

Sandusky, Ohio 44870

Before Nancy Geiger, a Registered Professional Reporter
and Notary Public in and for the State of Ohio

DEPOSITION OF JON SCHWARZENTRAUB

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<p>1 APPEARANCES:</p> <p>2</p> <p>3 On behalf of the Defendant/ 4 Third-Party Plaintiff:</p> <p>5 Murray & Murray Co., L.P.A., by 6 DONNA JEAN A. EVANS, ESQ. 7 111 East Shoreline Drive 8 P.O. Box 19 9 Sandusky, Ohio 44870 10 419-624-3000 11 dee@murrayandmurray.com</p> <p>12</p> <p>13 On behalf of the Plaintiff/ 14 Third-Party Defendant:</p> <p>15 Javitch, Block & Rathbone, by 16 R. GLENN KNIRSCH, ESQ. 17 1100 Superior Avenue 18 19th Floor 19 Cleveland, Ohio 44114 20 216-623-0000 21 gknirsch@jbandr.com 22 ----</p> <p>23 ALSO PRESENT: 24 Andrea Brent 25 ----</p>	<p>1 deposition more or less is an 2 opportunity for me to learn a little bit 3 more about the case that's pending right 4 now.</p> <p>5 I represent Midland Credit 6 Management and Midland Funding in a case 7 called Midland Funding versus Andrea 8 Brent versus Midland Credit Management, 9 Case Number 3:08CV1434.</p> <p>10 You've been named as somebody who 11 might have some relevant information 12 about this case, so I just need to find 13 out what information that might be.</p> <p>14 A. All right.</p> <p>15 Q. As you know, you're under 16 oath, you're expected to answer as 17 truthfully as you can, but this is not 18 a memory test. If you don't remember 19 something, I don't know is perfectly 20 acceptable, okay?</p> <p>21 Along those lines, please answer 22 questions yes, no out loud. Sometimes 23 we have a tendency to shake our head, 24 nod our head, shrug our shoulders. She 25 has to take down everything we're</p>
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<p>1 JON SCHWARZENTRAUB, of lawful 2 age, called for examination, as provided 3 by the Federal Rules of Civil Procedure, 4 being by me first duly sworn, as 5 hereinafter certified, deposed and said 6 as follows:</p> <p>7 EXAMINATION OF JON SCHWARZENTRAUB 8 BY-MR.KNIRSCH:</p> <p>9 Q. Good morning, Jon. First, 10 let me thank you for appearing here 11 voluntarily today. That was very kind 12 of you.</p> <p>13 Have you ever had your deposition 14 taken before?</p> <p>15 A. Not here, no. I have been 16 in depositions before, though.</p> <p>17 Q. You have, so you've had your 18 deposition taken before?</p> <p>19 A. Yeah, one of my former jobs, 20 I've been in depositions before.</p> <p>21 Q. Okay. Was that for some 22 sort of employment-related case?</p> <p>23 A. Yeah, information based.</p> <p>24 Q. Okay. Well, let's assume 25 you don't know much about them. A</p>	<p>1 saying, so I'd ask that you answer yes, 2 no out loud, okay?</p> <p>3 A. Okay.</p> <p>4 Q. If you don't understand a 5 question I'm asking, please ask me to 6 rephrase it and I will be happy to do 7 so; otherwise, I will have to assume 8 that you understood the question that 9 I've asked, okay?</p> <p>10 A. Okay.</p> <p>11 Q. And finally, if you need to 12 take a break, we'll take a break for 13 whatever need you have. I don't 14 anticipate this lasting very long today, 15 but if you need to take a break for 16 whatever reason, I don't really care 17 what that reason is, just go ahead and 18 ask, but if there's a question pending, 19 please answer that question first and 20 then we'll move ahead, okay?</p> <p>21 A. Okay.</p> <p>22 Q. Okay. Can you please state 23 your name for the record.</p> <p>24 A. Jon M. Schwarzentraub.</p> <p>25 Q. Schwarzentraub. Do you mind</p>

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1 if I call you Jon today?
 2 A. That's fine.
 3 Q. Okay. Jon, do you currently
 4 live with Andrea Brent?
 5 A. Yes, I do.
 6 Q. 3902 Donair Drive; is that
 7 correct?
 8 A. That's correct.
 9 Q. Okay. How long have you
 10 lived with Ms. Brent at that address?
 11 A. Since last year, September.
 12 Q. September of last year?
 13 A. Yeah. September, right
 14 around September.
 15 Q. Okay. And I understand
 16 you're engaged to be married?
 17 A. That's correct.
 18 Q. How long has that -- how
 19 long has that been?
 20 A. I don't know. Two months.
 21 Q. Two months prior -- oh, two
 22 months from today?
 23 A. Some -- yeah, I don't know.
 24 I don't remember right offhand when I
 25 asked her. I think it was September

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1 30th, I think.
 2 Q. I might recommend you find
 3 that out. That will help you in the
 4 future, I'm sure.
 5 Do you presently have a job?
 6 A. Yes, I do.
 7 Q. Where do you work at?
 8 A. I work at Jonotta & Herner.
 9 It's a construction business.
 10 Q. And do you do construction
 11 work?
 12 A. Yes, I do, in the field.
 13 Q. In the field.
 14 A. Yeah.
 15 Q. Like what sort of
 16 construction work?
 17 A. Concrete, that's my
 18 specialty.
 19 Q. Concrete?
 20 A. Yeah.
 21 Q. Okay. How long ago did you
 22 meet Donna -- I did it again. How long
 23 ago did you meet Andrea?
 24 A. It was July 3rd, 2007.
 25 Q. 2007. So I just need to ask

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1 a question. Did you know Ms. Brent
 2 between the years of 1996 and 2000?
 3 A. No, I did not.
 4 Q. So how long have you known
 5 Ms. Brent?
 6 A. I said, we met around July
 7 3rd.
 8 Q. I'm sorry. That's what you
 9 met and you've been engaged for about
 10 two months?
 11 A. That's correct.
 12 Q. Okay. And I understand you
 13 have children?
 14 A. I do.
 15 Q. Okay. How many children do
 16 you have, by any chance?
 17 A. I have four.
 18 Q. You have four children?
 19 A. Um-hum.
 20 Q. What range of ages are they?
 21 A. What is today? My oldest
 22 daughter is 20 years old, my oldest son
 23 is 18 and then I have a 13-year-old
 24 daughter and a 7-year-old boy.
 25 Q. How old are you?

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1 A. I am 41.
 2 Q. Really. I don't believe
 3 that for a second.
 4 Were those from a previous
 5 marriage?
 6 A. The three youngest ones were.
 7 Q. Okay. Have you ever gone to
 8 college?
 9 A. Yeah, physically, I went for
 10 about six months.
 11 Q. So I assume you did not
 12 finish?
 13 A. Chose not to continue to go.
 14 Q. Okay. What years did you go
 15 or what year did you go?
 16 A. It would have been '87.
 17 Q. '87. Okay. And by any
 18 chance, what college was that?
 19 A. It was the Bowling Green
 20 branch here in Huron.
 21 Q. So the Huron branch of
 22 Bowling Green State University?
 23 A. Yeah.
 24 Q. And you say you moved in
 25 with Andrea in about September of 2007?

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<p>1 A. That's correct.</p> <p>2 Q. Do you have joint checking</p> <p>3 accounts or anything like that yet?</p> <p>4 A. No.</p> <p>5 Q. Do you have any credit cards</p> <p>6 together, any bills that you pay</p> <p>7 together?</p> <p>8 A. No credit cards, no bills we</p> <p>9 pay together. She takes care of her</p> <p>10 finances. I take care of mine.</p> <p>11 Q. Okay. Do you by any chance</p> <p>12 keep important documents or do you sort</p> <p>13 of pay the bill and then forget about</p> <p>14 it or somewhere in between?</p> <p>15 A. I'd say somewhere some</p> <p>16 between.</p> <p>17 MR. KNIRSCH: Can we go off the</p> <p>18 record real quick?</p> <p>19 (Discussion had off the record.)</p> <p>20 Q. Now, do you know if Andrea</p> <p>21 retains any important documents, such as</p> <p>22 that, or is she about the same as you?</p> <p>23 A. Like I said, her finances</p> <p>24 are her finances. I know she does not</p> <p>25 throw anything away. As far as if the</p>	<p>1 very, very general information about the</p> <p>2 case and who might have information</p> <p>3 about the litigation.</p> <p>4 If you turn to page 2 of this</p> <p>5 document, at the very top you'll see</p> <p>6 your name, which is why you're here</p> <p>7 today. Ms. Brent has said that you</p> <p>8 might have information about the case</p> <p>9 and I'm really trying to find out what</p> <p>10 information that might be.</p> <p>11 So in the most general sense,</p> <p>12 what is your understanding of this case?</p> <p>13 A. Well, I see you spelled my</p> <p>14 name wrong, but -- do you want to</p> <p>15 repeat the question?</p> <p>16 Q. Sure. Sure. This document</p> <p>17 states that you have information that is</p> <p>18 relevant to the litigation. And in the</p> <p>19 most general sense, my question is what</p> <p>20 information or what do you know about</p> <p>21 this case?</p> <p>22 A. What do I know about it?</p> <p>23 Q. Yes.</p> <p>24 A. I know that you're trying to</p> <p>25 collect a debt that is not Andrea's.</p>
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<p>1 mail comes in and it's got her name on</p> <p>2 it, she does not throw it away and she</p> <p>3 -- one of the rooms in the house has</p> <p>4 her -- we don't use. It's pretty much</p> <p>5 her room and that's where she keeps her</p> <p>6 paperwork.</p> <p>7 Q. So sort of like an office?</p> <p>8 A. Yeah.</p> <p>9 Q. Okay. Thank you. I'm going</p> <p>10 to show you, can you please mark that</p> <p>11 as A.</p> <p>12 - - - - -</p> <p>13 (Thereupon, Plaintiff's</p> <p>14 Deposition Exhibit-A</p> <p>15 was marked for purposes</p> <p>16 of identification.)</p> <p>17 - - - - -</p> <p>18 Q. Just for the record, have</p> <p>19 you ever seen this before --</p> <p>20 A. No.</p> <p>21 Q. -- what's been marked as</p> <p>22 Exhibit A? Okay.</p> <p>23 For the record, this is</p> <p>24 essentially -- they're called initial</p> <p>25 disclosures and basically, it gives us</p>	<p>1 Q. Okay. And you got that</p> <p>2 information from Andrea?</p> <p>3 A. That's correct.</p> <p>4 Q. Okay. And it is her belief</p> <p>5 that we, meaning Midland Funding, are</p> <p>6 attempting to collect a debt that she</p> <p>7 does not owe?</p> <p>8 A. You are wrongfully trying to</p> <p>9 collect a debt.</p> <p>10 Q. Okay. Okay. Let's talk</p> <p>11 about that. Let's show you the actual</p> <p>12 lawsuit.</p> <p>13 MR. KNIRSCH: Can you please mark</p> <p>14 this as B.</p> <p>15 - - - - -</p> <p>16 (Thereupon, Plaintiff's</p> <p>17 Deposition Exhibit-B</p> <p>18 was marked for purposes</p> <p>19 of identification.)</p> <p>20 - - - - -</p> <p>21 Q. Jon, do you recognize what's</p> <p>22 been marked as Exhibit B? You can take</p> <p>23 your time and look through it, if you</p> <p>24 want.</p> <p>25 A. Nope. Never seen it before.</p>

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<p>1 Q. Okay. Just for the record, 2 this is the lawsuit that was filed 3 against Andrea which essentially started 4 this entire matter. 5 Do you remember Ms. Brent getting 6 a card in the mail that said she had 7 certified mail? Do you remember when 8 she received this, the day? 9 A. Yes, I do. 10 Q. Okay. Let's walk through 11 that day. It's my understanding that 12 she received a card in the mail that 13 said you have certified mail, please 14 pick it up. 15 Is that your understanding, as 16 well? 17 A. That's how certified mail 18 comes, yes. 19 Q. Sure. And that was on a 20 Saturday? 21 A. No idea. 22 Q. No idea. Did you go with 23 her to pick up the letter at the mail, 24 at the mailbox -- let me back up. I 25 didn't say that very well.</p>	<p>1 about. 2 Q. Okay. Did she ever look 3 into or ask you to look into whether or 4 not -- well, let's turn real quick to 5 page 2, if we might, as what's been 6 marked as Exhibit B. 7 It's my understanding and she 8 stated that she never heard of Midland 9 Funding before. Have you ever heard of 10 Midland Funding before? 11 A. Not before. 12 Q. Not before this litigation, 13 correct? 14 A. Nope. 15 Q. Okay. Do you ever receive 16 -- do you ever remember receiving a bill 17 from CitiBank or Associates Bank in the 18 mail, by any chance? 19 A. No. 20 Q. Okay. Any telephone calls 21 related to, you know, you owe this 22 money, anything like that? 23 A. No. Why would they contact 24 me? 25 Q. Okay. Do you guys have a</p>
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<p>1 Did you go with Ms. Brent to the 2 post office to pick up this piece of 3 certified mail? 4 A. I don't remember. 5 Q. You don't remember. So 6 could have, you just don't remember? 7 A. I could have. 8 Q. Do you remember any 9 discussions you had about this? 10 A. When she -- when Andrea told 11 me that she was getting sued for 12 something that the paperwork, and she 13 basically told me she was getting sued 14 over something she didn't know what it 15 was. She didn't know what it was. 16 Q. Okay. So she explained to 17 you that she was a defendant in a 18 lawsuit and that she -- it was her 19 belief that she didn't owe anything. 20 Is that a fair characterization 21 of what you just said? 22 A. She told me she was getting 23 sued. 24 Q. Okay. 25 A. And she didn't know what</p>	<p>1 land line or do you have a personal 2 cell phone or do you have a phone at 3 home or both? 4 A. I have a cell phone, Andrea 5 has a cell phone. There is no land 6 line at the house. 7 Q. Okay. Neither do I. 8 Let's go back to that day. She 9 came back from the post office and said, 10 I'm getting sued by -- for a debt that 11 I don't owe, correct? 12 A. Yeah. 13 Q. What was her general 14 reaction? Was she upset? Was she 15 angry? Was she -- 16 A. Yeah, she was upset. 17 Q. She was upset. In terms of 18 upset, was it anger or was it worry? 19 Was it -- 20 A. When Andrea gets upset, she 21 -- it's not -- she'll cry, she won't 22 cry like balling crying, tears will come 23 and her teeth will chatter like she's 24 cold and she'll shake. 25 Q. Okay. And that's sort of</p>

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<p>1 what happened that day?</p> <p>2 A. And that's exactly what</p> <p>3 happened that day.</p> <p>4 Q. And that's her general</p> <p>5 reaction to bad news?</p> <p>6 A. No. It's not a general</p> <p>7 reaction. I've seen her do that about</p> <p>8 three times in the past year. Three or</p> <p>9 four times in the past year and-a-half.</p> <p>10 Q. Do you mind me asking what</p> <p>11 circumstances that might have happened</p> <p>12 in the past?</p> <p>13 A. I can't recall right offhand,</p> <p>14 but it is not a general reaction at</p> <p>15 all.</p> <p>16 Q. So it's an elevated reaction</p> <p>17 of --</p> <p>18 A. Yes.</p> <p>19 Q. -- being upset about</p> <p>20 something bad that happened?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. How long did that</p> <p>23 last for, do you remember?</p> <p>24 A. I'd say about ten minutes,</p> <p>25 five, ten minutes.</p>	<p>1 Q. Have you ever had reason to</p> <p>2 get a lawyer before other than perhaps</p> <p>3 the times you've been deposed?</p> <p>4 A. Oh, I've got divorced, yeah,</p> <p>5 I've hired lawyers but not Murray &</p> <p>6 Murray.</p> <p>7 Q. Okay. How did she come to</p> <p>8 come to Murray & Murray, do you</p> <p>9 remember?</p> <p>10 A. I do remember she talked to</p> <p>11 her dad and her dad suggested it.</p> <p>12 Q. Okay. So after she spoke</p> <p>13 with the attorney about what was</p> <p>14 happening to her, did that help her, you</p> <p>15 know, her level of upsetness? That's</p> <p>16 not a very good question.</p> <p>17 You said she was upset after she</p> <p>18 received this certified mail, after she</p> <p>19 spoke with an attorney, did that help?</p> <p>20 A. I would say -- I don't</p> <p>21 really know. I would say no. I mean,</p> <p>22 if it were me, no. You're still here.</p> <p>23 We're still in this room, so no.</p> <p>24 Q. Okay.</p> <p>25 A. The problem's not solved.</p>
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<p>1 Q. So after that, what happened</p> <p>2 next? Did you decide to call somebody?</p> <p>3 She said she tried to call on a</p> <p>4 Saturday and she tried to call the law</p> <p>5 firm and nobody answered. Is that your</p> <p>6 recollection, as well?</p> <p>7 A. Yeah, she tried getting</p> <p>8 answers that day and nothing.</p> <p>9 Q. Okay. Do you remember how</p> <p>10 long after that Saturday you decided to</p> <p>11 seek an attorney's help?</p> <p>12 A. I didn't seek any attorneys,</p> <p>13 any lawyer; I didn't.</p> <p>14 Q. Okay. How about her? Do</p> <p>15 you remember how long, she testified</p> <p>16 that she didn't really remember how long</p> <p>17 it was.</p> <p>18 Do you remember how long it was?</p> <p>19 A. No idea.</p> <p>20 Q. Days?</p> <p>21 A. Nope. No idea.</p> <p>22 Q. You don't remember, okay.</p> <p>23 Have you ever dealt with Murray & Murray</p> <p>24 before?</p> <p>25 A. No.</p>	<p>1 Q. Sure. So the continuation</p> <p>2 of the problem you think is contributing</p> <p>3 to a continuous level of being upset?</p> <p>4 A. Yeah.</p> <p>5 Q. Okay. And just so I am</p> <p>6 sure, you say you've never seen this</p> <p>7 before, this document which I've marked</p> <p>8 as Exhibit B?</p> <p>9 A. I told you earlier, her</p> <p>10 finances are her finances, mine are</p> <p>11 mine, and no, I have not seen this</p> <p>12 before.</p> <p>13 Q. Okay. Okay. I'm finished</p> <p>14 with that one for now.</p> <p>15 MR. KNIRSCH: Can you please mark</p> <p>16 that as C.</p> <p>17 - - - - -</p> <p>18 (Thereupon, Plaintiff's</p> <p>19 Deposition Exhibit-C</p> <p>20 was marked for purposes</p> <p>21 of identification.)</p> <p>22 - - - - -</p> <p>23 Q. I've marked as Exhibit C</p> <p>24 what is the original answer,</p> <p>25 counterclaim and third-party complaint</p>

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<p>1 that Ms. Brent filed. 2 Have you ever seen this before? 3 A. No. 4 Q. Okay. Do you remember any 5 discussions about what course of action 6 was going to be taken after this 7 complaint was filed against Andrea 8 Brent? 9 A. Say it again. 10 Q. Sure. I'll ask more 11 specifically. Do you remember any 12 discussions about, well, we'll file a 13 counterclaim? 14 A. No, she told me that she 15 hired, you know, Murray & Murray to 16 represent her in this case. 17 Q. And that that would -- that 18 they would be taking care of it from 19 here on out? 20 A. Yeah. 21 Q. Okay. So you don't remember 22 any discussion about a counterclaim, or 23 do you know what a counterclaim is? 24 A. No. Explain it to me. 25 Q. Sure. You know, it's</p>	<p>1 here, you know, in general, yeah. 2 Q. Just that you'd been asked a 3 series of questions? 4 A. Yeah. She'd been present 5 and she'd be typing stuff down and I'd 6 have to be sworn in. 7 Q. All that good stuff? 8 A. And tell the truth, the 9 whole truth and nothing but the truth. 10 Q. Okay. Let me back up. You 11 said that you were present at one time 12 between a meeting with her and Donna 13 Brent -- sorry -- Andrea Brent and Donna 14 Evans. 15 How long ago was that, do you 16 remember? 17 A. Couple weeks, a month, 18 something like that. 19 Q. Do you remember any 20 discussion of them deciding to file a 21 new complaint or a new counterclaim 22 against my clients? 23 A. No. The only reason I was 24 in the room was because it was -- the 25 building was pretty much shut down for</p>
Page 23	Page 25
<p>1 basically where we sue somebody and then 2 that somebody sues us back, okay. 3 Do you ever remember any 4 discussions about this is what we talked 5 about doing? 6 A. Well, we didn't talk about 7 doing anything. Andrea and her lawyer 8 talked about from what I understand that 9 there was going to be a countersuit. 10 Q. Okay. Have you ever been 11 present, by any chance, at a meeting 12 between Andrea and her attorney? 13 A. One time. 14 Q. Okay. Do you remember what 15 the -- what was discussed at that 16 meeting? 17 A. No. I wasn't part of it. I 18 was in the room. I was reading the 19 paper. 20 Q. Okay. Did you do anything 21 to prepare for today, by any chance? 22 A. No. 23 Q. Did anybody tell you what to 24 expect today? 25 A. In general on the way up</p>	<p>1 the day and all the lights were off, 2 and that was pretty much the only reason 3 I was in the room. 4 Q. Okay. And you said you 5 don't really remember, you weren't 6 really paying attention? 7 A. No. I had the paper with me 8 and I was reading the paper. 9 Q. Okay. 10 - - - - - 11 (Thereupon, Plaintiff's 12 Deposition Exhibit-D 13 was marked for purposes 14 of identification.) 15 - - - - - 16 Q. Does that look familiar at 17 all to you? 18 A. No, it does not. 19 Q. Okay. If you could turn to 20 page 4 of this, which is Exhibit D. 21 I'm looking at page 19, or excuse me, 22 paragraph 19 of page 4, where it says, 23 A deceptive and misleading affidavit. 24 Did you ever have a chance to 25 look at an affidavit? Do you know what</p>

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<p>1 that paragraph's talking about, let me 2 ask? 3 A. I don't see where you're 4 talking about. 5 Q. Sure. Paragraph 19. 6 A. I'm looking at 19. Is that 7 the same? 8 Q. Yes. 9 A. Yes. 10 Q. Where it says, MCM and 11 Midland filed this suit in an attempt to 12 collect a debt using a deceptive and 13 misleading affidavit. Do you see that? 14 A. I see that. 15 Q. Do you know what that's 16 talking about, by any chance? 17 A. Well, you know more about 18 it, so I'm learning so why don't you 19 explain it. 20 Q. Well, if the term -- does 21 the term affidavit mean anything to you? 22 A. It's a legal definition of 23 something. You can tell me about it. 24 Q. I was wondering, do you have 25 any understanding as to how an affidavit</p>	<p>1 A. She has seen a doctor about 2 sleeping, yes. 3 Q. Okay. Is that related to -- 4 I understand she's experiencing 5 migraines, as well? 6 A. That's correct. 7 Q. Do you know how long that's 8 been going on for? 9 A. I took her to the emergency 10 room last winter when we had -- when we 11 had the big snow out here last winter. 12 And that's -- and she was seeing a 13 doctor probably about a month before 14 that, around a month. Now I'm not sure 15 on that, but she had been seeing a 16 doctor about complaining about her head 17 hurting, her ear, her head and not 18 sleeping. 19 Q. Okay. You said that started 20 sometime last winter during a big 21 snowstorm? Was that the -- 22 A. No, it didn't start then. 23 That's when I took her to the emergency 24 room. It started probably about a month 25 or month and-a-half, two months before</p>
Page 27	Page 29
<p>1 relates to this case? 2 A. No. 3 Q. Okay. That's all I need to 4 know. 5 If you could turn back, I'm 6 sorry, back to page 2, again, paragraph 7 6, do you see where I am? 8 It says, Brent, upon learning 9 that she had been sued for a debt that 10 she knew nothing about became extremely 11 upset and distraught. Do you see that? 12 A. I see that. 13 Q. Is that what we were talking 14 about before when she came back and she 15 was crying and she clenched her teeth, 16 et cetera, stuff like that? 17 A. Her teeth were chattering but 18 yes, that's what we were talking about. 19 Q. And you said that that 20 lasted for about ten minutes? 21 A. I'd say around that, yeah. 22 Q. Okay. Do you know anything 23 about her -- she claims to have had to 24 get sleeping pills and stuff, too. 25 Do you know anything about that?</p>	<p>1 that. 2 Q. Okay. Was that by any 3 chance on Valentine's Day, is that the 4 snowstorm you're talking about or was it 5 in 2007? 6 A. No idea. 7 Q. You don't remember? 8 A. It was wintertime. 9 Q. What's that? 10 A. It was wintertime. 11 Q. Okay. 12 A. That's all I remember. 13 Q. And I understand it took 14 them a while to figure out exactly what 15 was wrong with her. 16 Is that your understanding, as 17 well? 18 A. Yeah. 19 Q. That they thought it was 20 allergies for a while? 21 A. Yeah. One doctor thought it 22 was her ear, and yeah. 23 Q. Okay. She also explained to 24 me how sometimes, you know, different 25 factors will bring on a headache.</p>

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<p>1 Do you know what factors those 2 might be? 3 A. Nope. 4 Q. Okay. Do you know if it's 5 elevated stress, things along that line? 6 A. I'd imagine. If I get 7 stressed out, I wind up getting a 8 headache sometimes, so I would imagine. 9 Q. Sure. Okay. If you can 10 turn real quick to page 8, paragraph 39. 11 Do you see where I'm at? 12 A. Um-hum. 13 Q. Okay. Again, this is along 14 the same lines of what we just spoke 15 of; she has suffered damages in the form 16 of anger, anxiety, emotionally distress, 17 fear, frustration, et cetera. 18 Is there anything else you can 19 tell me about these allegations that you 20 haven't already told me? 21 A. Yeah. Well, why did we only 22 read part of line 39? 23 Q. Sure. You can read through 24 the whole thing, if you want. 25 A. Yeah. Let's read the whole</p>	<p>1 this issue with anybody, besides you and 2 her father? 3 A. Not that I know of. 4 Q. Okay. 5 A. Besides maybe her sister, she 6 talks to her sister on a daily basis. 7 Q. I am finished with that one, 8 as well. 9 MR. KNIRSCH: Can you please mark 10 that. 11 - - - - - 12 (Thereupon, Plaintiff's 13 Deposition Exhibit-E 14 was marked for purposes 15 of identification.) 16 - - - - - 17 Q. Have you ever seen this 18 before, Jon? 19 A. No. 20 Q. Okay. If you could look at 21 No. 6, or excuse me, page 2, No. 6 of 22 what's been marked as Exhibit E, if you 23 can read paragraph, or the answer under 24 paragraph 6 real quick for me and just 25 let me know when you're done.</p>
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<p>1 thing. It says as a direct -- can you 2 pronounce that word for me. Why don't 3 you read that for me? 4 Q. Sure. In the form of anger, 5 okay. As a direct and proximate result 6 of Midland and MCM's violation of Fair 7 Debt, Brent and the members of her class 8 have suffered damages in the form of 9 anger, anxiety, emotional distress, 10 fear, frustration, upset, humiliation, 11 embarrassment, amongst other harmful 12 emotions, as well as the cost of 13 defending unwarranted and illegal 14 collection lawsuits. 15 Is there anything else that you 16 can add to what you've already told me 17 about this paragraph? 18 A. That pretty much sums it up 19 right there. 20 Q. Okay. Do you know how much 21 money she spent to deal with these 22 issues today? 23 A. No idea. Her finances are 24 hers, mine are mine. 25 Q. Okay. Has she spoken with</p>	<p>1 A. All right. 2 Q. Okay. Does that sound about 3 right, what you just read? 4 Is there anything else that you 5 want to add to that or that you can add 6 to it? 7 A. That pretty much sums it up. 8 Q. She speaks in that paragraph, 9 she said that she could not sleep and 10 suffered bouts of depression, she would 11 start crying whenever she thought about 12 what might happen to her financially. 13 If she were -- do you know the 14 value of the debt that Midland's trying 15 to seek from Ms. Brent? 16 A. In one of these things, I 17 saw a figure about \$4,000. 18 Q. Yes, it was about \$4,500. 19 A. Okay. 20 Q. Would that be -- let's 21 assume that she was forced to pay 22 \$4,500. 23 Would that be something that 24 would be financially draining on her or 25 on you, as a family?</p>

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Page 34	Page 36
<p>1 A. Her finances are hers, mine 2 are mine. I have no idea. It's not 3 her debt, so hell yeah. 4 Q. I asked Andrea a bit about 5 her social life and her ability to do 6 chores around the house and to watch 7 your kids to a certain extent. She 8 said that that really hasn't -- this 9 really hasn't affected those aspects of 10 her life much after this lawsuit was 11 filed. 12 Is that something you would agree 13 with? 14 A. What has affected? Say it. 15 Q. Oh, sure. Ms. Brent 16 testified that after this lawsuit was 17 filed in April of this year, comparing 18 before then and after then, that she 19 really -- it really hasn't affected her 20 ability to do her chores around the 21 house, her social life, et cetera. 22 Would you say that that's 23 accurate? 24 A. Andrea is a very strong 25 woman. She knows things got to get</p>	<p>1 A. Nope. 2 Q. How about down at the bottom 3 where it says Verizon Calling Card 4 Classic, have you ever heard of a 5 Verizon Calling Card Classic? 6 A. No. I didn't know that 7 Verizon had calling cards. 8 Q. Have you ever seen a bill 9 around the house for a Verizon anything? 10 A. No. Except mine, I got 11 Verizon. 12 Q. You got Verizon, that's your 13 cell phone? 14 A. Yeah. 15 Q. And you stated before that 16 you did not know Ms. Brent between 1996 17 and 2000, correct? 18 A. That's correct. 19 - - - - - 20 (Thereupon, Plaintiff's 21 Deposition Exhibit-G 22 was marked for purposes 23 of identification.) 24 - - - - - 25 Q. Jon, this is a form letter</p>
Page 35	Page 37
<p>1 done, so she'll get them done. 2 Q. And she's able to do those 3 types of things? 4 A. And she's very good with my 5 kids. 6 Q. Okay. Jon, I'm finished 7 with that document. 8 - - - - - 9 (Thereupon, Plaintiff's 10 Deposition Exhibit-F 11 was marked for purposes 12 of identification.) 13 - - - - - 14 Q. Jon, have you ever seen 15 this? 16 A. Nope. 17 Q. If you can look down to the 18 middle where it says, HP, BP, do you 19 see where that is in the gray? 20 A. Yes. 21 Q. Okay. Does the phone number 22 419-734-5558 mean anything to you? 23 A. Nope. 24 Q. How about the one above 25 that, 419-531-9998?</p>	<p>1 which basically means that these crazy 2 symbols next to, such as contact 3 information at the top get filled in by 4 a computer. I'm just going to ask you 5 if you've ever seen anything that looks 6 familiar to this or if this rings any 7 sort of bell to you. 8 A. No. 9 Q. Okay. And you said 10 previously that you've never heard of 11 Midland Funding or Midland Credit 12 Management, prior to this whole 13 situation? 14 A. Only Midland I know is 15 Midland Title in Norwalk. So it's a 16 title company. That's all I know. 17 Q. Sure. And that's not my 18 client, so you've never heard of my 19 clients before? 20 A. No. 21 - - - - - 22 (Thereupon, Plaintiff's 23 Deposition Exhibit-H 24 was marked for purposes 25 of identification.)</p>

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1 - - - - -

2 Q. Okay. I'm going to ask you

3 the exact same question about this,

4 which has been marked as Exhibit H.

5 Have you ever seen, with the same

6 caveats that this information gets

7 filled in, does this at all look

8 familiar to you or have you ever seen a

9 document looking similar to this?

10 A. Nope.

11 Q. Okay.

12 MR. KNIRSCH: Donna, I think I'm

13 almost done. Can I have five minutes

14 real quick to make sure?

15 MS. EVANS: Sure.

16 (Recess taken.)

17 Q. Jon, I just have five, ten

18 minutes left and we'll get out of here,

19 okay.

20 You spoke earlier about a room in

21 your home that is used to collect old

22 important statements.

23 Do you recall that conversation?

24 A. Yeah, Andrea keeps her

25 paperwork in that room.

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1 Q. Okay. Do you know what type

2 of paperwork she keeps in that room?

3 A. No idea.

4 Q. Do you know how long she

5 retains documents, by any chance?

6 A. No idea.

7 Q. Have you ever discussed with

8 Ms. Brent her expectations of this

9 litigation?

10 A. We've talked.

11 Q. What have you talked about?

12 A. She just talks about not --

13 trying to figure out why you guys are

14 doing this. And why you're even here

15 and it would be a lot nicer if we could

16 just concentrate on our marriage,

17 upcoming marriage. And you know, she

18 just bought the house, and you know,

19 starting a new life together rather than

20 have -- rather than being sued,

21 wrongfully sued.

22 Q. Do you know what goals she

23 has out of this? Have you ever talked

24 about that?

25 A. Out of what?

Page 40

1 Q. The end goal out of this

2 thing, when this thing ends, do you know

3 what the goal is?

4 A. This thing?

5 Q. This litigation, this

6 lawsuit.

7 A. The wrongful lawsuit?

8 Q. Sure.

9 A. Yeah. She wants it over, I

10 know that. That's about all I know.

11 Q. Has there ever been

12 discussion about, you know, a monetary

13 figure or anything like that?

14 A. What's monetary?

15 Q. Sure. Let me just ask you

16 bluntly. Has she ever said, I expect

17 to make this amount of money out of

18 this lawsuit?

19 A. No.

20 Q. Okay. I just want to

21 clarify. She testified to trying to

22 call on a Saturday.

23 Do you remember that at all?

24 A. Yes.

25 Q. Okay. Do you remember if

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1 she tried calling any other day than

2 Saturday?

3 A. She talked about it, you

4 know, Monday, I mean, like I said, when

5 she got the certified letter, I don't

6 remember what day it was. You're

7 telling me it's a Saturday so she called

8 on a Saturday. I know she called the

9 day she got the letter. And I know she

10 kept calling until they got some answers

11 that -- well, they're not really

12 answers, just an explanation of the

13 lawsuit.

14 Q. Do you know who she spoke

15 with about that?

16 A. Absolutely not.

17 Q. Did you look at any

18 documents prior to today to prepare for

19 the deposition?

20 A. No.

21 Q. Okay. Just to clarify, the

22 day she received the lawsuit, you don't

23 exactly remember what day that was?

24 A. No.

25 Q. Okay. And did you go to the

DEPOSITION OF JON SCHWARZENTRAUB

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1 post office with her or did she go
2 alone?
3 A. I don't recall.
4 Q. Okay. You're aware that
5 Andrea was deposed for this case,
6 correct?
7 A. Explain.
8 Q. This is a deposition you're
9 having today, right?
10 A. Um-hum.
11 Q. You're aware that Andrea went
12 through the same thing, correct?
13 A. Yeah.
14 Q. Did you have any discussions
15 about what transpired during that
16 deposition with her?
17 A. She told me a little bit, I
18 mean, general.
19 Q. Like what, do you remember?
20 A. Off the wall stupid questions
21 that she was asked.
22 Q. Okay.
23 A. Irrelevant questions, stuff
24 like that.
25 Q. Okay. Has she ever

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1 discussed her concern that she might
2 actually owe this money.
3 A. No.
4 MR. KNIRSCH: Jon, I am finished
5 today. I want to thank you for coming
6 here today and answering my questions.
7 Do you want me to explain waiver?
8 MS. EVANS: Yes.
9 MR. KNIRSCH: Jon, you have a
10 right, an absolute right to review what
11 she's taken down to make sure that what
12 she took down is, in fact, what you
13 said and what you meant to say. You
14 have a right to review it or you can
15 waive it, and it's really up to you.
16 THE WITNESS: Like review it
17 when?
18 MR. KNIRSCH: It usually takes
19 between seven to ten days to get the
20 transcript. She'll send it to you and
21 you have 30 days.
22 THE WITNESS: Absolutely.
23 MR. KNIRSCH: You want to review
24 it?
25 THE WITNESS: Yeah, absolutely.

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1 MR. KNIRSCH: So you will not
2 waive?
3 THE WITNESS: I would like to --
4 I would like to read it.
5 MR. KNIRSCH: Very good. That's
6 it.
7 (Off the record at 3:56 p.m.)
8 -----
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1 CEFARATTI GROUP FILE NO. 14002
2 CASE CAPTION: MIDLAND FUNDING, LLC VS.
3 ANDREA BRENT
4 DEPONENT: JON SCHWARZENTRAUB
5 DEPOSITION DATE: DECEMBER 2, 2008
6
7 (SIGN HERE)
8 The State of Ohio,)
9 County of Cuyahoga,) SS:
10 Before me, a Notary Public in and
11 for said County and State, personally
12 appeared JON SCHWARZENTRAUB, who
13 acknowledged that he/she did read
14 his/her transcript in the above-
15 captioned matter, listed any necessary
16 corrections on the accompanying errata
17 sheet, and did sign the foregoing sworn
18 statement and that the same is his/her
19 free act and deed.
20 IN TESTIMONY WHEREOF, I have
21 hereunto affixed my name and official
22 seal at , this
23 day of , A.D. 2008.
24
25 Notary Public Commission Expires

DEPOSITION OF JON SCHWARZENTRAUB

Page 46	Page 48
<p>1 ERRATA SHEET</p> <p>2 PAGE LINE CORRECTION AND REASON</p> <p>3 .</p> <p>4 .</p> <p>5 .</p> <p>6 .</p> <p>7 .</p> <p>8 .</p> <p>9 .</p> <p>10 .</p> <p>11 .</p> <p>12 .</p> <p>13 .</p> <p>14 .</p> <p>15 .</p> <p>16 .</p> <p>17 .</p> <p>18 .</p> <p>19 .</p> <p>20 .</p> <p>21 .</p> <p>22 .</p> <p>23 .</p> <p>24 .</p> <p>25 .</p>	<p>1 I am not, nor is the court</p> <p>2 reporting firm with which I am</p> <p>3 affiliated, under a contract as defined</p> <p>4 in Civil Rule 28 (D).</p> <p>5 IN WITNESS WHEREOF, I have</p> <p>6 hereunto set my hand this day of</p> <p>7 , 2008.</p> <p>8 .</p> <p>9 .</p> <p>10 .</p> <p>11 .</p> <p>12 Nancy Geiger, Notary Public</p> <p>13 within and for the State of Ohio</p> <p>14 .</p> <p>15 .</p> <p>16 .</p> <p>17 .</p> <p>18 My commission expires November 18, 2013.</p> <p>19 .</p> <p>20 .</p> <p>21 .</p> <p>22 .</p> <p>23 .</p> <p>24 .</p> <p>25 .</p>
Page 47	
<p>1 CERTIFICATE</p> <p>2 .</p> <p>3 State of Ohio) SS.:</p> <p>4 County of Cuyahoga)</p> <p>5 I, Nancy Geiger, a Notary Public</p> <p>6 within and for the State of Ohio, duly</p> <p>7 commissioned and qualified, do hereby</p> <p>8 certify that the within named witness,</p> <p>9 was duly sworn to testify the truth, the</p> <p>10 whole truth and nothing but the truth in</p> <p>11 the cause aforesaid; that the testimony</p> <p>12 then given by the witness was by me</p> <p>13 reduced to stenotypy in the presence of</p> <p>14 said witness; afterwards transcribed,</p> <p>15 and that the foregoing is a true and</p> <p>16 correct transcription of the testimony</p> <p>17 so given by the witness.</p> <p>18 I do further certify that this</p> <p>19 deposition was taken at the time and</p> <p>20 place in the foregoing caption</p> <p>21 specified.</p> <p>22 I do further certify that I am</p> <p>23 not a relative, counsel or attorney for</p> <p>24 either party, or otherwise interested in</p> <p>25 the event of this action.</p>	